

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request for a Conditional Use)

) ORDER

Permit by: RICHARD AND LINDA RUSSELL.)

) CASE NUMBER CUP 33098

1. NATURE OF THE REQUEST

The applicants, Richard and Linda Russell has applied for a permit to build a NON FARM HOME on 51.24 acres Zoned EFU-CG. This request was heard by the hearings officer May 15, 1998. The request was reviewed for conformance with Klamath County Land Development Code Article 54.

2. NAMES OF PARTICIPANTS

The hearings officer reviewing this application is Joan-Marie Michelsen. The applicant appeared and offered testimony. The planning department was represented by Kim Lundahl. The recording secretary is Karen Burg.

3. LOCATION OF PROPERTY

The property in question is located east of Swan Lake Rd. and is more particularly described as:

Port. Secs. 23, 24, 25, & 26, T 38S R10E.

The access to the property is via existing drive off of Swan Lake Rd. Fire protection is. The land is presently undeveloped and unused for any commercial uses. Sewerage will be provided by a septic system. The soils are class IVe and VIIs. The water will be provided by a well. The area is zoned EFU-CCG/AG.

4. MATERIALS CONSIDERED

All evidence submitted by the applicant and located in the Staff Report was considered as was the oral testimony given May 15, 1998.

5. FINDINGS

The Hearings officer FINDS AS FOLLOWS:

- a. The development of this type of structure is not included in the permitted uses for this zoning, however the LDC permits residences subject to certain findings.
- b. The parcel in question was legally created.
- c. The location of the house which has been proposed is well outside the floodplain.
- d. Approval of the requested structure will not create conditions or circumstances that are contrary to the purposes or intent of county planning laws.
- e. Active resource use has NOT occurred on the subject property or the adjacent properties. The property is not large enough for legitimate forestry use, nor is it viable for agriculture.
- f. Fire protection is provided and the threat to spreading fire to resource productive properties is mitigated.
- g. The use of the land in the area is rural residential and not rural commercial.
- h. Adjacent and nearby lands are in small parcels, in highly diverse ownership and many are being used for rural residential living.
- i. The location of a residence on the parcel will not destabilize the existing land use pattern of the area.

- j. The proposed structure is located on land that is generally unsuitable for timber or agriculture considering the size of the parcel, the soil, the flooding and high water table, and the present vegetation.
- k. The applicant provided evidence that it would be cost prohibitive to establish a farming operation on the property.
- l. The site is too small, ownership too divided, and the stocking too poor for viable forest management activity. No loss of productive resource land will result and the commercial forest land base of Klamath County is not compromised by the requested use.
- m. There is no Goal 5 Overlay to the area.
- n. As condition to this approval, a written covenant will be recorded which recognizes the rights of adjacent and nearby land owners and operators to conduct farm and forest operations consistent with currently accepted farming practices and the Forest Practices Act of Oregon.
- o. There is no dwelling presently sited on this parcel.
- p. Road access is sufficient.
- q. This property is not under forest deferral and no stocking requirements need be met.
- r. The septic system and water are already installed and approved.

6. ORDER

Therefore, it is hereby ordered that the applicants request to develop a NON FARM HOME is approved subject to the following conditions:

- a. That the dwelling be sited and constructed in such a way as to fully comply with Article 59 of the LDC.
- b. That the applicant files a restrictive covenant with the county clerk prohibiting the permit grantee and successors in interest from dividing the property or filing any complaint of any type or kind concerning the presently accepted resource management practices and farming uses that may occur on nearby lands devoted to commercial or other resource use.
- c. That the applicant complies fully with fire safety and other siting standards of the Land Use Code as set out in Article 69 of the LDC.

Dated this 15th day of May 1998

Joan-Marie Michelsen
Hearings Officer

NOTICE OF APPEAL RIGHTS

You are hereby notified this application may be appealed to the Klamath County Board of Commissioners by filing with the Klamath County Planning Department a Notice of Appeal as set out in Section 33.004 of the Klamath County Land Development Code together with the fee required within SEVEN DAYS (7) following the mailing date of this order.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 18th day
of May A.D., 19 98 at 2:39 o'clock P.M., and duly recorded in Vol. M98,
of Deeds on Page 16860.

Return: Commissioners Journal

Bernetha G. Letsch, County Clerk

FEE No Fee.

By Kathleen Ross